



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ७०

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Third Amendment) Bill, 2021 (L. A. Bill No. XXXIX of 2021), introduced in the Maharashtra Legislative Assembly on the 24th December 2021, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

SATISH WAGHOLE,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXXIX OF 2021.

A BILL

further to amend the Maharashtra Co-operative Societies Act, 1960.

Mah. XXIV of 1961. WHEREAS it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; it is hereby enacted in the Seventy-second Year of the Republic of India as follows:—

1. This Act may be called the Maharashtra Co-operative Societies (Third Amendment) Act, 2021. Short title.

Mah. XXIV of 1961. 2. In section 2 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “the principal Act”), in clause (19), sub-clause (a-1) shall be deleted. Amendment of section 2 of Mah. XXIV of 1961.

3. In section 25A of the principal Act, after the words “provisions of this Act”, the words “or the rules made thereunder” shall be inserted. Amendment of section 25A of Mah. XXIV of 1961.

Substitution of
section 26 of
Mah. XXIV of
1961.

No rights of
membership to
be exercised till
due payments
are made.

Amendment of
section 27 of
Mah. XXIV of
1961.

Amendment of
section 73A of
Mah. XXIV of
1961.

Amendment of
section 73 AAA
of Mah. XXIV
of 1961.

Amendment of
section 73CA of
Mah. XXIV of
1961.

Amendment of
section 75 of
Mah. XXIV of
1961.

Amendment of
section 77A of
Mah. XXIV of
1961.

4. For section 26 of the principal Act, the following section shall be substituted, namely:—

“26. A member shall be entitled to exercise such rights as provided in the Act, rules and by-laws:

Provided that, no member shall exercise the rights, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed and specified under the by-laws of the society, from time to time:

Provided further that, in case of increase in minimum contribution of member in share capital to exercise rights of membership, the society shall give a due notice of demand to the member and give reasonable period to comply with it.”.

5. In section 27 of the principal Act,—

(1) sub-section (1A) shall be deleted;

(2) in sub-section (3), the word “active” shall be deleted.

6. In section 73A of the principal Act, in sub-section (9), the words “is not an active member and” shall be deleted.

7. In section 73AAA of the principal Act, in sub-section (1),—

(1) after first proviso, the following proviso shall be inserted, namely:—

“Provided further that, in case of an apex society and, in exceptional circumstances, in case of any other society, the Registrar may increase the number of members of the committee upto twenty-five with the prior approval of the State Government.”;

(2) in the second proviso, for the words “Provided further that” the words “Provided also that” shall be substituted.

8. In section 73CA of the principal Act, in sub-section (1),—

(1) clause (ii-a) shall be deleted;

(2) in clause (iv), after the words “the rules made thereunder” the words “or by-laws of the society” shall be inserted.

9. In section 75 of the principal Act, in sub-section (1),—

(1) before the first proviso, the following proviso shall be inserted, namely:—

“Provided that, the Registrar may, in exceptional circumstances such as infectious diseases, pandemic, flood, heavy rains, droughts or earthquake, by general or special order, extend the above referred period not exceeding three months.”;

(2) in the first proviso, for the words “Provided that” the words “Provided further that” shall be substituted;

(3) in the second proviso, for the words “Provided further that” the words “Provided also that” shall be substituted.

10. In section 77A of the principal Act,—

(1) in sub-section (1), the third proviso shall be deleted;

(2) in sub-section (3),—

(i) for the words “six months” the words “twelve months” shall be substituted;

(ii) in the proviso, for the words “six months” the words “twelve months” shall be substituted.

11. In section 78 of the principal Act, in sub-section (1),—

(1) in clause (i), for the words “six months” the words “twelve months” shall be substituted;

(2) the third proviso shall be deleted.

12. In section 78A of the principal Act, in sub-section (1), in clause (a), in sub-clause (ii), for the words “six months” the words “twelve months” shall be substituted.

13. In section 79 of the principal Act,—

(1) the existing sub-section (1) shall be renumbered as sub-section (1-1A) thereof; and before sub-section (1-1A) as so renumbered, the following sub-section shall be inserted, namely:—

“(1) The Registrar may direct any society or class of societies to take action to comply with the provisions of this Act, rules made thereunder, by-laws of the society or any order passed by the Registrar under this Act; and the officer or officers of the society shall be bound to comply with order within the period specified therein.”;

(2) in sub-section (3), for the words, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-sections (1) and (1-1A)” shall be substituted.

14. For section 82 of the principal Act, the following section shall be substituted, namely:—

“82. (1) If the result of the audit held under the last preceding section discloses any defects in the working of a society, the society shall within three months from the date of the audit report, explain to the Registrar the defects or the irregularities pointed out by the auditor or auditing firm, and take steps to rectify the defects and provide remedy to irregularities, and report to the Registrar the action taken by it thereon and place the same before the next general body meeting. The Registrar may also make an order directing the society or its officers to take such action, as may be specified in the order to remedy such defects, within the time specified therein.

(2) The Registrar or the person authorised by him shall scrutinise the audit rectification report and accordingly inform the society about such report within six months from the date of receipt thereof.

(3) It shall be the responsibility of the auditor or auditing firm concerned to offer his or its remarks, as the case may be, on the rectification report of the society, itemwise, till entire rectification is made by the society and submit his or its report to the Registrar.

(4) If, the society fails to submit the audit rectification report to the Registrar and to the annual general body meeting, the Registrar may by an order declare that any officer or member of the committee, as the case may be, whose duty was to submit the audit rectification report to the Registrar and to the annual general body meeting, and who without

Amendment of
section 78 of
Mah. XXIV of
1961.

Amendment of
section 78A of
Mah. XXIV of
1961.

Amendment of
section 79 of
Mah. XXIV of
1961.

Substitution of
section 82 of
Mah. XXIV of
1961.

Rectification of
defects in
accounts.

reasonable excuse failed to do the aforesaid act, shall be disqualified for being elected or for being any officer or member of the committee for such period not exceeding five years, as he may specify in such an order and, if the officer is a servant of the society, impose upon him a penalty of an amount not exceeding five thousand rupees :

Provided that, before making such an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken against him.”.

Amendment of
section 109 of
Mah. XXIV of
1961.

15. In section 109 of the principal Act, in sub-section (1),—

(1) for the words “extended by the Registrar” the words “extended by the Registrar or the Government” shall be substituted;

(2) for the first proviso, the following provisos shall be substituted, namely:—

“Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate:

Provided further that, if it is necessary to grant further extension beyond ten years, the Registrar shall send proposal for such extension to the Government. The Government may grant extension for a period not exceeding one year at a time and five years in the aggregate :

Provided also that, immediately, after the expiry of fifteen years from the date aforesaid, it shall be deemed that the liquidation proceedings have been terminated and the Registrar shall pass an order of terminating the liquidation proceedings.”;

(3) the second proviso shall be deleted.

Amendment of
section 144-5A
of Mah. XXIV
of 1961.

16. In section 144-5A of the principal Act, before *Explanation*, the following proviso shall be inserted, namely:—

“Provided that, the salary earners' credit co-operative society may accept deposits voluntarily from their members after their retirement by enrolling them as nominal members.”.

17. In section 146 of the principal Act, clause (l-1) shall be deleted.

Amendment of
section 146 of
Mah. XXIV of
1961.

18. In section 147 of the principal Act, clause (l-1) shall be deleted.

Amendment of
section 147 of
Mah. XXIV of
1961.

19. In section 152A of the principal Act, in sub-section (1), for the words “within three days” the words “within three working days” shall be substituted.

Amendment of
section 154 of
Mah. XXIV of
1961.

20. In section 154 of the principal Act, in sub-section (2A),—

(a) the words and figures “or Certificate issued by the Liquidator under section 105” shall be deleted;

(b) for the words “amount of recoverable dues :” the words “amount of recoverable dues. If the revision application is allowed, the Revisional Authority may pass an order directing the society to refund the amount so deposited to the applicant :” shall be substituted.

21. In section 154B of the principal Act,—

(1) in sub-section (1), for the figures, letters, words and brackets “78A, sub-sections, (1), (1A)” the figures, letters, words, brackets and sign “78A, sub-sections, (1), (1-1A), (1A)” shall be substituted.

(2) in sub-section (2), for the brackets, figures, letters and sign “(19) (a), (a-1), (b)” brackets, figures, letters “(19) (a), (b)” shall be substituted.

22. In section 157 of the principal Act, the second proviso shall be deleted.

Amendment of section 154B of Mah. XXIV of 1961.

Amendment of section 157 of Mah. XXIV of 1961.

STATEMENT OF OBJECTS AND REASONS

A new Part IX-B regarding Co-operatives Societies has been inserted in the Constitution of India by the Constitution (Ninety Seventh Amendment) Act, 2011. The Government of Maharashtra has made various amendments in the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) (hereinafter referred to as “the said Act”), so as to make the provisions in the said Act in consonance with the constitutional provisions of the said Part IX-B.

2. The Gujarat High Court in the case of *Rajendra Shah Vs Union of India Chief Director (Co-operation) (C/WPPIL/166 of 2012)* has declared the said Constitutional Amendment Act inserting Part IX-B *ultra-virus* the Constitution. The Supreme Court, in Civil Appeal No. 9108-9109 of 2014 has upheld the judgement of the Gujarat High Court except to the extent that it strikes down the entirety of Part IX-B of the Constitution of India. The Supreme Court in the said judgment has declared that Part IX-B of Constitution of India is operative only in so far as it concerns multi-state co-operative societies both within the various states and in the Union Territories of India.

The Government considers it expedient to make certain amendments in the said Act for the interest of the society members and for smooth functioning of the co-operative movement.

3. The salient features of the proposed amendments to the said Act are as follows:—

- (1) to amend sections 2(19), 26, 27 and 73A with a view to delete the definition of “active member” and provisions relating thereto ;
- (2) to amend section 25A to enable the society to remove the name of the member from the register of its members who has ceased to be a member or who stands disqualified by or under the provisions of the rules made under the said Act ;
- (3) to amend section 73AAA to enable the Registrar to increase the number of members of committee of apex society and, in exceptional circumstances, of any other society upto twenty-five, with the prior approval of the State Government, in order to give representation to all revenue divisions, districts or talukas in the committee of the apex societies or any other Society, as the case may be ;
- (4) to amend section 73CA to enable the society to disqualify a member who has incurred disqualification as per the bye-laws of the society ;
- (5) to amend section 75 to provide that the Registrar may, in exceptional circumstances such as infectious diseases, pandemic, etc. by general or special order, extend the period, not exceeding three months, for conducting annual general meeting ;
- (6) to amend sections 78 and 78A to extend the period of six months to twelve months of administrator or committee of administrators appointed thereunder to carry out their administrative duties ;
- (7) to amend section 79 to enable the Registrar to direct any co-operative society or class thereof to comply with the provisions of the said Act, rules or bye-laws ;

(8) to amend section 82 to facilitate the Registrar to deal with the audit rectification report and take further action in case of non-compliance.

(9) to amend section 109 to enable the State Government to extend the period of completion of liquidation process of society from ten years to fifteen years, as it has been noticed that liquidation work of certain societies could not be completed within ten years due to complex liquidation process.

(10) to amend section 144-5A to allow salary earners' credit co-operative society to take deposits from members after their retirement by making them nominal members, to overcome liquidity crunch due to refund of deposits to retired members.

(11) to amend section 157 to restore the powers of the State Government to exempt any society or class of societies from any of the provisions of the said Act or rules made thereunder.

4. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 23rd December 2021.

BALASAHEB PATIL,
Minister for Co-operation.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 4.— Under this clause, which seeks to substitute section 26 of the Maharashtra Co-operative Societies Act, 1960, the power is taken to the State Government to prescribe the payment to be made by member to the society in respect of membership or the interest to be acquired by the member in the society so as to enable him to exercise rights of member under the said Act, rules and bye-laws.

Clause 9.— Under this clause, which seeks to amend section 75 of the said Act, the power is taken to the Registrar to extend the period of conducting annual general meeting, by general or special order, not exceeding three months in exceptional circumstances such as infectious diseases, pandemic, flood, heavy rains, droughts or earthquake.

2. The above-mentioned proposals for delegation of legislative powers are of normal character.